

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  ONESTAR COMMUNICATIONS, LLC, AND ONESTAR LONG DISTANCE, INC.	DOCKET NOS. SPU-01-9 TF-01-222 WRU-01-37-526 (TCU-00-17)
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**ORDER APPROVING TARIFF, CONCURRENCE IN MAPS, GRANTING WAIVERS,  
AND TRANSFERRING CERTIFICATE**

(Issued August 20, 2001)

On July 12, 2001, OneStar Communications, LLC (OneStar), OneStar Long Distance, Inc. (OneStar Long Distance), and CRG International, Inc. (Network One), filed with the Utilities Board (Board) a notification of the transfer of assets from OneStar Long Distance and Network One to OneStar. The filing was identified as Docket No. SPU-01-9. The transfer of assets will include the transfer of OneStar Long Distance's certificate of convenience and necessity to provide local exchange service granted in Docket No. TCU-00-17. After the transfer, OneStar will provide all of the services previously provided by OneStar Long Distance in Iowa. Network One has no customers in Iowa.

Iowa Code § 476.29(3) authorizes the transfer of a certificate upon approval by the Board. Since OneStar will be the provider of local exchange service in Iowa upon approval of the transfer, the Board will consider the transfer under the same conditions as it would an application for a certificate. OneStar has provided the information necessary for that consideration and has filed a proposed tariff with the

terms, conditions, and rates for providing local exchange service. The tariff has been identified as Docket No. TF-01-222.

OneStar has stated that it will provide 2-PIC dialing parity on a 1+ basis and that it will adopt the local exchange and service territory maps of Qwest Corporation (Qwest) as its service territory. OneStar also requested waivers of Board rules 199 IAC 16.5(2), 18.2, 22.3(1), and 22.23(2). The waiver request was identified as Docket No. WRU-01-37-526.

Iowa Code § 476.29(2) provides that the local exchange carrier shall not be denied a certificate if the Board finds that the applicant "possesses the technical, financial, and managerial ability to provide the service it proposes to render and the board finds the service is consistent with public interest." The Board has reviewed OneStar 's information and finds the necessary technical, financial, and managerial ability to provide local exchange service has been demonstrated. The Board finds it is in the public interest to approve the transfer of the certificate of convenience and necessity of OneStar Long Distance to OneStar.

OneStar requested a waiver of 199 IAC 16.5(2), stating it employs an accounting system in accordance with generally accepted accounting principles (GAAP) rather than the system prescribed by the subrule. The Board finds this waiver should be granted since records kept in accordance with GAAP are acceptable for a competitive local exchange service provider.

OneStar has requested that the requirements of 199 IAC 18.2 be waived. The rule requires that a regulated public utility keep its records in the state of Iowa. The

Board will grant the waiver based upon the statement of OneStar that it will make the records available to the Board upon request.

OneStar requested the Board waive 199 IAC 22.3(1), requiring it to independently publish a directory. The Board will grant this waiver since OneStar does not have a sufficient number of customers to warrant publishing a directory and OneStar will provide customer listings to be included in the local directory.

OneStar has also requested a waiver of 199 IAC 22.23(2) to allow the transfer of the customer base of OneStar Long Distance to OneStar without first obtaining each customer's authorization and verification. The subrule requires individual customer verification to change the customer's local or long distance provider.

OneStar states that it is very costly and unduly burdensome for it to obtain authorization and verification from each subscriber due to the number of affected customers. OneStar has approximately 4,549 long distance customers in Iowa. OneStar states it will send notice of the transfer to all customers prior to the transfer and then once the transfer is completed it will send a similar notice to all customers.

Rule 199 IAC 1.3 states that the Board may grant a waiver if it finds based upon clear and convincing evidence that the application of the rule would pose an undue hardship and would not prejudice the substantial legal rights of any person, the provisions waived are not specifically mandated by statute, and substantially equal protection of public health, safety, and welfare will be afforded after the waiver. The Board has considered the waiver requests described above and finds that the waivers meet the four criteria of the rule and the evidence in support of the waivers is clear and convincing.

The Board finds that adherence to Board rules 199 IAC 16.5(2), 18.2, and 22.3(1) would be an undue hardship on a competitive local exchange carrier beginning to do business in Iowa. It would be an undue hardship for OneStar to publish a directory for just its customers, keep a separate set of accounts, or to maintain separate records within Iowa. The Board finds there are no substantial legal rights of any person that are affected by these waivers and there is no statute that specifically mandates the actions waived. Additionally, the Board finds that there will be substantially equal protection for health, safety, and welfare provided, since the actions waived will be completed under different circumstances.

The Board finds the request to waive 199 IAC 22.23(3) should be granted as it complies with the provisions of 199 IAC 1.3. OneStar Long Distance has a significant number of customers and it would be an undue hardship for OneStar to obtain customer verification from those customers. The waiver is similar to the waiver granted in Docket No. SPU-99-29, when GTE Midwest Incorporated was purchased by Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom. In that docket, the Board found that it would be an undue hardship for a company in these circumstances to obtain the individual waivers. This is in light of the minimal impact that the transfer will have on customers and the cost to the companies to notify and obtain verification from all customers.

The Board finds that the verification requirement is not specifically mandated by statute or other provision of law under the circumstances presented. Iowa Code § 476.103 (2001) gives the Board authority to promulgate rules "to protect consumers from unauthorized changes in telecommunications service."

Subrule 199 IAC 22.23(2) implements the statutory prohibition against unauthorized transfers. The rule is designed to prevent fraudulent transfers of customers. Where the transfer is part of a corporate restructuring, the Board finds that statutory verification is not required.

The Board finds substantially equal protection of public health, safety, and welfare will be afforded by means other than the waived rule. The transaction is the merging of companies within a corporate structure, and in a competitive environment, customers have alternatives if they are not satisfied with the service of OneStar. For the above reasons, the Board will waive the provisions of 199 IAC 22.23(2) as requested by OneStar.

OneStar states it will provide service in the local exchanges in the service territory of Qwest and states it will adopt the exchange maps and future modifications to the exchange maps and service area maps of Qwest. Iowa Code § 476.29(4) requires that each certificate define the service territory in which landline local telephone service will be provided and authorizes the Board to promulgate rules establishing requirements for filing maps showing the service territory. Subrule 199 IAC 22.20(3) requires that all utilities have on file with the Board maps that show exchange boundaries. The Board finds that by the adoption of the exchange service maps of Qwest that OneStar has complied with the requirements of Board rules and Iowa statutes.

OneStar has filed a proposed tariff, Docket No. TF-01-222, to provide local exchange service. The Board has reviewed the tariff and finds that it complies with the Board's rules on filing and processing of tariff pages. Since the Board has

approved OneStar 's tariff and concurrence in the maps of Qwest, the Board will approve the transfer of Certificate No. 0216 to OneStar. An amended Certificate No. 0216 will be issued concurrently with this order.

**IT IS THEREFORE ORDERED:**

1. The request for the transfer of the certificate of public convenience and necessity from OneStar Long Distance, Inc., to OneStar Communications, LLC, filed on July 12, 2001, is approved as described in this order.
2. The proposed tariff filed by OneStar Communications, LLC, to provide local exchange service is approved.
3. The waiver of 199 IAC 16.5(2), 18.2, 22.3(1), and 22.23(2) is granted as described in this order.
4. The concurrence in the exchange and service area maps of Qwest Corporation is approved.
5. An amended Certificate No. 0216 is issued to OneStar Communications, LLC, concurrently with this order.

**UTILITIES BOARD**

/s/ Allan T. Thoms

/s/ Diane Munns

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

Dated at Des Moines, Iowa, this 20<sup>th</sup> day of August, 2001.